

## **IC 36-7-18**

### **Chapter 18. Housing Authorities**

#### **IC 36-7-18-1**

##### **Application of chapter; impairment of contract; fulfillment of obligations**

Sec. 1. (a) This chapter applies to all units except townships.

(b) Only the sections of this chapter that are listed in section 1.5 of this chapter apply to a consolidated city that by ordinance establishes or designates a department, division, or agency of the city to perform the public housing function.

(c) An ordinance establishing or designating a department, division, or agency of a consolidated city to perform the public housing function may not impair the obligations of the housing authority existing under any contract in effect at the time that ordinance is effective. The consolidated city shall fulfill any obligations of the housing authority that are transferred to the consolidated city.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.339-1985, SEC.1; P.L.59-1986, SEC.17; P.L.344-1987, SEC.2.*

#### **IC 36-7-18-1.5**

##### **Powers of agency performing public housing function**

Sec. 1.5. If a consolidated city adopts an ordinance under section 1 of this chapter, the legislative body or the department, division, or agency performing the public housing function:

(1) has all powers granted to it by the consolidated city under this section and IC 36-1;

(2) has all powers granted to a housing authority by and is subject to sections 2, 3, 10(b), 10(c), 10(d), 15, 16(a), 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, and 42 of this chapter and may exercise all those powers as commissioners of a housing authority exercise those powers under those sections; and

(3) designate officials or employees to exercise all its powers and execute all necessary documents, instruments, or obligations. However, notes or bonds issued by the consolidated city under this chapter shall be executed and attested as other notes or bonds of the consolidated city are executed and attested.

*As added by P.L.344-1987, SEC.3.*

#### **IC 36-7-18-2**

##### **Declaration of public purpose**

Sec. 2. The clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property may be acquired.

*As added by Acts 1981, P.L.309, SEC.37.*

#### **IC 36-7-18-3**

### **"Persons of low income" defined**

Sec. 3. For purposes of this chapter, persons or families who, without financial assistance, lack the amount of income that a housing authority finds is necessary to enable them to live in decent, safe, and sanitary dwellings without overcrowding are considered persons of low income.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-4**

#### **Housing authorities; establishment; procedure**

Sec. 4. (a) A unit may establish a housing authority if the fiscal body of the unit, by resolution, declares that there is a need for an authority in the unit.

(b) The determination as to whether or not there is a need for an authority may be made by the fiscal body:

- (1) on its own motion;
- (2) on the filing of a petition signed by twenty-five (25) residents of the unit and stating that there is a need for an authority in the unit; or
- (3) on receipt of an order from the division of family and children.

(c) A resolution may be passed under this section only after a public hearing. Notice of the time, place, and purpose of the hearing must be given by the fiscal body by publication in accordance with IC 5-3-1.

(d) The fiscal body of a unit may adopt a resolution declaring that there is need for a housing authority in the unit if it finds that:

- (1) unsanitary or unsafe dwelling accommodations are inhabited in the unit; or
- (2) there is a shortage of safe or sanitary dwelling accommodations available in the unit for persons of low income at rentals they can afford.

In determining whether dwelling accommodations are unsafe or unsanitary, the fiscal body may consider the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to inhabitants, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions in the buildings endanger life or property by fire or other causes.

(e) In any proceeding involving any contract of a housing authority, the authority shall be conclusively presumed to have become established and authorized to transact business and exercise its powers under this chapter on proof of the adoption of a resolution by the fiscal body declaring the need for the authority. The resolution is sufficient if it declares that there is a need for an authority and finds that either or both of the conditions listed in subsection (d) exist in the unit. A copy of the resolution certified by the clerk of the fiscal body is admissible in evidence in any proceeding.

*As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.32; P.L.41-1987, SEC.21; P.L.2-1992, SEC.891; P.L.4-1993, SEC.329; P.L.5-1993, SEC.337; P.L.24-1997, SEC.65.*

### **IC 36-7-18-5**

#### **Commissioners; appointment**

Sec. 5. (a) After the fiscal body of a unit adopts a resolution under section 4 of this chapter, persons shall be appointed as commissioners of the housing authority in the following manner:

(1) In a city, the fiscal body shall promptly notify the city executive of the adoption of the resolution. The executive shall then appoint seven (7) persons, one (1) of whom must be a resident of a housing project under the jurisdiction of the housing authority, no more than four (4) of whom may be of the same political party, as commissioners of the housing authority.

(2) In a town or county, the fiscal body shall appoint seven (7) persons, one (1) of whom must be a person directly assisted by the housing authority, no more than four (4) of whom may be of the same political party, as commissioners of the housing authority.

(b) Subsequent appointments to the authority shall be made in the same manner.

(c) A commissioner of a housing authority must be a resident of the area in which the housing authority has jurisdiction as provided in section 41 of this chapter.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.340-1985, SEC.1; P.L.229-2001, SEC.1.*

#### **IC 36-7-18-6**

##### **Commissioners not officers or employees of unit; exceptions**

Sec. 6. (a) Except as provided in subsection (b), a commissioner of a housing authority may not be an officer or employee of the unit for which the authority is created.

(b) A member of a redevelopment commission established by a unit under IC 36-7-14 may be a commissioner of a housing authority of the unit.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.26-1993, SEC.7; P.L.263-1993, SEC.1.*

#### **IC 36-7-18-7**

##### **Commissioners; terms of office; certificates of appointment**

Sec. 7. (a) The executive or fiscal body appointing the first commissioners of a housing authority shall fix their terms as follows:

(1) One (1) year for two (2) of the commissioners.

(2) Two (2) years for two (2) of the commissioners.

(3) Three (3) years for one (1) of the commissioners.

(4) Four (4) years for two (2) of the commissioners.

After that, appointments to the authority are for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. A commissioner serves until his successor is appointed and qualified.

(b) A certificate for the appointment or reappointment of a commissioner of a housing authority must be filed with the clerk of the fiscal body of the unit. The certificate is conclusive evidence of the proper appointment of the commissioner.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.2.*

#### **IC 36-7-18-8**

### **Commissioners; compensation; expenses**

Sec. 8. A commissioner of a housing authority is entitled to:

- (1) a per diem allowance of twenty-five dollars (\$25) for attending a meeting of the authority; and
- (2) reimbursement for necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.308-1989, SEC.1.*

### **IC 36-7-18-9**

#### **Commissioners; removal from office**

Sec. 9. (a) A commissioner of a housing authority may be removed for inefficiency, neglect of duty, or misconduct in office, by:

- (1) the city executive, for a city housing authority;
- (2) the town fiscal body, for a town housing authority; or
- (3) the county fiscal body, for a county housing authority.

(b) A commissioner may be removed under subsection (a) only if he was given a copy of the charges at least ten (10) days before a hearing on the charges and had an opportunity to be heard in person or by counsel. In a city, the fiscal body shall appoint the hearing officer for the hearing, which may not be the city executive when he is the person bringing the charges. The commissioner against whom the charges are made may require that the hearing be open to the public. After the removal of a commissioner, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk of the fiscal body of the unit.

*As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.313, SEC.1; P.L.344-1987, SEC.4.*

### **IC 36-7-18-9.1**

#### **Commissioners; residence requirement; removal**

Sec. 9.1. A commissioner of a housing authority is automatically removed whenever the commissioner's residence is outside the boundaries of the unit having the housing authority.

*As added by P.L.340-1985, SEC.2.*

### **IC 36-7-18-10**

#### **Employees; legal services; pension plans**

Sec. 10. (a) A housing authority may employ an executive director, technical experts, and other permanent and temporary officers, agents, and employees required by the authority, and may determine their qualifications, duties, and compensation.

(b) If a housing authority needs legal services, it may call upon the attorney for the unit or may employ its own counsel and legal staff.

(c) A housing authority may delegate powers and duties to its agents and employees.

(d) A housing authority may contract for and purchase adequate pension plans on behalf of those employees. The plans may be purchased from any insurance company licensed to sell such plans in the state, or from any other financial institutions that are approved by a federal agency with which the authority has dealings, notwithstanding

any statute providing for participation of public employees in the public employees retirement fund or any other publicly governed fund. The expenses of such a contract or purchase shall be paid from funds of the authority as other expenses are paid.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.5.*

## **IC 36-7-18-11**

### **Conflicts of interest**

Sec. 11. (a) Except as provided in subsection (b), a commissioner or an employee of a housing authority may not acquire or have any direct or indirect interest in:

- (1) a housing project;
- (2) any property included or planned to be included in a project;
- or
- (3) a contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(b) A commissioner or an employee of a housing authority may have an interest described in subsection (a) if that interest is in:

- (1) a bank or similar financial institution in which housing authority money is deposited;
- (2) a contract for materials or services provided on an emergency basis under IC 5-22-10-4 in which time is of the essence, if:
  - (A) the materials or services are priced at a cost comparable to the same materials or services provided on a competitive basis; and
  - (B) a declaration of emergency is recorded in the housing authority's minutes;
- (3) a contract for materials or services provided by a minority business enterprise (as defined under IC 4-13-16.5-1) that are not available through other minority business enterprises, if the materials and services are priced at a cost comparable to the same materials or services provided on a competitive basis;
- (4) a contract for materials or services that cannot be reasonably obtained from other suppliers; or
- (5) a lease under which an employee is a tenant of the housing authority.

(c) If a commissioner or an employee of a housing authority owns or controls a direct or an indirect interest in any property included or planned to be included in a housing project, he shall immediately disclose that interest in writing to the authority. The disclosure shall be entered upon the minutes of the authority, and the commissioner holding the interest may not vote on the acquisition of the property by the authority. Failure to disclose such an interest constitutes misconduct in office.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.340-1985, SEC.3; P.L.14-1991, SEC.24; P.L.49-1997, SEC.79.*

## **IC 36-7-18-12**

### **Chairman; vice chairman**

Sec. 12. (a) The executive or fiscal body appointing the first

commissioners of a housing authority shall select one (1) of those commissioners to be the first chairman of the authority. When the office of the chairman becomes vacant, the commissioners shall elect a chairman, who must be a commissioner.

(b) The commissioners of a housing authority shall elect a vice chairman for the authority, who must be a commissioner.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.3.*

### **IC 36-7-18-13**

#### **Quorum; approval of actions**

Sec. 13. The following rules apply to proceedings of a housing authority:

(1) Four (4) commissioners constitute a quorum.

(2) A majority vote of the commissioners present is required to authorize an action of the authority, unless a greater vote is required by the bylaws of the authority.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.4.*

### **IC 36-7-18-14**

#### **Limitations on powers of authorities**

Sec. 14. A housing authority is a municipal corporation and has all the powers necessary or convenient for carrying out the purposes of this chapter. However, an authority may not initiate any project under this chapter without:

(1) approval of the fiscal body that established the authority; and

(2) approval, by ordinance, of a municipality, if:

(A) the project is to be initiated by a county housing authority;

(B) the project is within five (5) miles of the corporate boundaries of the municipality; and

(C) the jurisdiction of the county housing authority has been expanded to include the jurisdiction of the municipality under section 41 of this chapter.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-15**

#### **Actions; contracts; rules**

Sec. 15. A housing authority may:

(1) sue and be sued;

(2) have and alter a seal;

(3) make and execute contracts and other instruments necessary or convenient for the exercise of its powers; and

(4) adopt bylaws and rules, consistent with this chapter, to carry out its powers and purposes.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-16**

#### **Housing projects; authorization; limitations**

Sec. 16. (a) A housing authority may:

(1) prepare, carry out, acquire, lease, and operate housing

projects; and

(2) provide for the construction, reconstruction, improvement, alteration, or repair of all or part of a housing project.

(b) Notwithstanding subsection (a), a housing project may not be built if the average construction cost, exclusive of the cost of land, demolition, and nondwelling facilities, is more than:

(1) two thousand dollars (\$2,000) per room;

(2) ten thousand dollars (\$10,000) per room, if the accommodations are designed specifically for persons of low income who:

(A) have attained the age at which they may elect to receive old age benefits under Title 2 of the Social Security Act (42 U.S.C. 401-433); or

(B) are under disability (as defined in Section 223 of that Act (42 U.S.C. 423)); or

(3) any greater amount established by the federal government as the basis for computing any of its annual contributions.

(c) Notwithstanding subsection (b), if the housing authority finds that:

(1) compliance with the cost limitations in subsection (b) would require the sacrifice of sound standards of construction, design, and livability in a project; and

(2) there is an acute need for the proposed housing;

it may exceed the cost limitation that would otherwise be applicable under subsection (b) by not more than seven hundred fifty dollars (\$750) per room.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.309-1989, SEC.1; P.L.255-1996, SEC.27.*

### **IC 36-7-18-17**

#### **Contracts relating to housing projects**

Sec. 17. A housing authority may contract with a person or a public or private agency for:

(1) services;

(2) privileges;

(3) works; or

(4) facilities;

related to a housing project or its occupants. Notwithstanding any other law, a contract let under this section may require the contractor and any subcontractors to comply with requirements as to minimum wages and maximum hours of labor, and with any conditions that the federal government attaches to its financial aid of the project.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-18**

#### **Property management; acquisition, ownership, and disposition of property**

Sec. 18. A housing authority may:

(1) lease or rent any land, buildings, structures, or facilities included in a housing project;

(2) fix the rentals or charges for property it rents or leases;

- (3) own, hold, and improve real or personal property;
- (4) acquire any interest in real or personal property in any manner, including the power of eminent domain;
- (5) dispose of any interest in real or personal property in any manner;
- (6) provide for the insurance of the property or operations of the authority against risks or hazards; and
- (7) obtain from the federal government insurance or guarantees for the payment of any debts secured by mortgages on property included in a housing project, whether or not those debts were incurred by the authority.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.6.*

### **IC 36-7-18-19**

#### **Investment of funds; cancellation of indebtedness**

Sec. 19. (a) A housing authority may invest any money that is held in reserves or sinking funds, or that is not required for immediate disbursement, in:

- (1) property or securities in which savings banks may invest money subject to their control;
- (2) the shares of any federal savings association or federal savings bank that is organized under the Home Owners' Loan Act of 1933, (12 U.S.C. 1461, 1462, 1464 through 1466a, and 1468 through 1470), as in effect on December 31, 1990, and has its principal office in Indiana; and
- (3) the shares of any savings association that is organized under Indiana statutes and the accounts of which are insured by the Federal Deposit Insurance Corporation as provided in 12 U.S.C. 1811 through 1833e, as in effect on December 31, 1990.

However, the value of shares purchased under subdivision (2) or (3) may not exceed the amount of insurance protection afforded a member or investor of the association.

(b) A housing authority may cancel its bonds, notes, or warrants after purchasing them for not more than their principal amount plus accrued interest.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.8-1991, SEC.36; P.L.79-1998, SEC.108.*

### **IC 36-7-18-20**

#### **Investigatory powers; cooperation with political subdivisions and state**

Sec. 20. A housing authority may:

- (1) investigate living and housing conditions, and methods of improving those conditions;
- (2) determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income;
- (3) make studies and recommendations relating to the problems of clearing, replanning, and reconstructing slum areas, and of providing dwelling accommodations for persons of low income;



- (4) cooperate with the state or any political subdivision in clearing, replanning, and reconstructing slum areas, and providing dwelling accommodations for persons of low income; and
- (5) engage in studies and experimentation on the subject of housing.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.7.*

### **IC 36-7-18-21**

#### **Designation of hearing examiners**

Sec. 21. A housing authority may designate one (1) or more commissioners or other persons to:

- (1) conduct examinations and investigations, on behalf of the authority;
- (2) hear testimony and take proof under oath at public hearings, on behalf of the authority;
- (3) administer oaths;
- (4) issue subpoenas requiring the attendance of witnesses or the production of books and papers;
- (5) issue commissions for the examination of witnesses who are outside Indiana, unable to appear before the authority, or excused from attendance; and
- (6) make its findings and recommendations regarding any building or property that is dangerous to the public health, safety, or welfare available to appropriate agencies, including agencies responsible for abating or eliminating nuisances, or for demolishing unsafe or unsanitary structures.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-22**

#### **Availability of housing; national defense activities; major disasters**

Sec. 22. (a) Notwithstanding any statute regarding rentals of, preferences or eligibility for admissions to, or occupancy of dwellings in housing projects, during the period that a housing authority finds that there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities or for victims of a major disaster, it may:

- (1) undertake the development and administration of housing projects for the federal government;
- (2) make dwellings in any of its housing projects available to persons engaged in national defense activities or to victims of a major disaster; and
- (3) contract with any governmental entity for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of housing free of charge for needy disaster victims during the period of acute need.

(b) For purposes of this section, persons engaged in national defense activities are:

- (1) persons in the armed forces of the United States;
- (2) employees of the department of defense;

(3) workers engaged or to be engaged in activities connected with national defense; and

(4) the families of these persons, employees, and workers who reside with them.

(c) For purposes of this section, a major disaster is a flood, drought, fire, hurricane, earthquake, storm, or other catastrophe that, as determined by the fiscal body that established the housing authority, is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the resulting damage, hardship, and suffering.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-23**

#### **Authorities exempt from certain statutory requirements; trust bids, proposals, or quotations**

Sec. 23. (a) A housing authority is not subject to statutes regarding the acquisition, operation, construction, reconstruction, improvement, alteration, repair, disposition, or exchange of real or personal property by other public bodies, except:

(1) with regard to money received from municipalities or counties and derived from local tax levies;

(2) with regard to money received from the state; and

(3) as otherwise provided by this chapter.

(b) A housing authority is not subject to statutes regarding appropriations by other public bodies.

(c) This subsection applies if a housing authority disposes of real property or awards a contract for the procurement of property by acceptance of bids, proposals, or quotations. A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.336-1989(ss), SEC.53.*

### **IC 36-7-18-24**

#### **Establishment of rental rates**

Sec. 24. (a) A housing authority shall manage and operate its housing projects in an efficient manner so that it may fix the rentals for dwelling accommodations at the lowest possible rates while providing decent, safe, and sanitary dwelling accommodations. The authority may not construct or operate a project for profit or as a source of revenue to the municipality or county.

(b) A housing authority may not fix the rentals for dwellings in its projects at higher rates than it finds necessary to produce revenues that, together with all other available money, revenues, income, and receipts of the authority, will be sufficient:

(1) to pay, as they become due, the principal and interest on the bonds, notes, or warrants of the authority;

(2) to meet the cost of, and to provide for, maintaining and operating the projects, including the cost of insurance and the

administrative expenses of the authority;

(3) to create, during a period of not less than six (6) years immediately after its issuance of any bonds, notes, or warrants, a reserve sufficient to meet the largest principal and interest payments due on them in any one (1) year after that, and to maintain that reserve; and

(4) to accumulate reasonable reserves to cover the making of necessary repairs.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-25**

#### **Exemptions from taxes and assessments; agreements to pay for services**

Sec. 25. The property of a housing authority is exempt from all taxes and special assessments of the state or any political subdivision. In lieu of taxes or special assessments, an authority may agree to make payments to any political subdivision for services, improvements, or facilities furnished by that political subdivision for the benefit of a housing project owned by the authority. However, these payments may not exceed the estimated cost to the political subdivision of the services, improvements, or facilities to be furnished.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-26**

#### **Tenant selection; rentals; adoption of rules**

Sec. 26. (a) A housing authority shall observe the following rules with respect to rentals and tenant selection in the operation and management of housing projects:

(1) An authority may not accept a person as a tenant in a dwelling in a project if the persons who would occupy the dwelling have an aggregate annual income that equals or exceeds the amount that, as determined by the authority, is necessary to enable those persons to secure safe, sanitary, and uncongested dwelling accommodations within the jurisdiction of the authority and to provide an adequate standard of living for themselves. The determination of the authority is conclusive.

(2) An authority may rent or lease the dwelling accommodations in a project only at rentals within the financial reach of persons who lack the amount of income that, as determined in subdivision (1), is necessary to obtain safe, sanitary, and uncongested dwelling accommodations within the jurisdiction of the authority and to provide an adequate standard of living.

(3) An authority may rent or lease to a tenant a dwelling consisting of a number of rooms no greater than that which it considers necessary to provide safe and sanitary accommodations without overcrowding.

(b) The housing authority shall adopt rules indicating the manner in which it will comply with this section. These rules apply equally to all

tenants and must be posted for public inspection in a conspicuous place in the office of the authority.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-27**

#### **Persons ineligible as tenants**

Sec. 27. (a) Officers and members of the authority other than the resident manager are not eligible as tenants under this chapter. This section may not be construed to prevent an existing tenant from being appointed to the housing authority board. However, employees of the authority are eligible as tenants under this chapter.

(b) Employees of the United States, the state, and their political subdivisions and agencies may not comprise more than twenty-five percent (25%) of the tenants in a housing project.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.341-1985, SEC.1; P.L.14-1991, SEC.25; P.L.324-1995, SEC.1.*

### **IC 36-7-18-28**

#### **Eminent domain**

Sec. 28. (a) A housing authority may, by the exercise of the power of eminent domain, acquire any real property that it considers necessary for its purposes under this chapter, if it first adopts a resolution declaring that necessity. An authority may exercise the power of eminent domain:

- (1) under IC 32-24;
- (2) under IC 32-24-2, as if it were a works board; or
- (3) under any other applicable statutory provisions for the exercise of the power of eminent domain.

(b) Property already devoted to a public use may be acquired under this section, but real property belonging to the state or any political subdivision may not be acquired without the consent of the state or political subdivision that owns the property.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.2-2002, SEC.115.*

### **IC 36-7-18-29**

#### **Housing projects; applicability of ordinances and regulations**

Sec. 29. All housing projects of a housing authority are subject to the applicable local ordinances and regulations regarding planning, zoning, sanitation, and building. In the planning and location of any housing project, an authority shall consider the relationship of the project to any larger plan or long-range program for the development of the area in which the authority functions.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-30**

#### **Bonds, notes, and warrants; authorization; liability; limitations upon payment; tax exemptions; legalization**

Sec. 30. (a) A housing authority may issue bonds, notes, or warrants to finance any of its corporate purposes. An authority may also issue refunding bonds for the purpose of paying or retiring bonds issued by it.

(b) A housing authority may determine the types of bonds, notes, or warrants to be issued, including those on which the principal and interest are payable:

- (1) exclusively from the income and revenues of the housing project financed with their proceeds;
- (2) exclusively from the income and revenues of certain designated housing projects, whether or not they were financed in whole or in part with their proceeds; or
- (3) except for a consolidated city, from its revenues generally.

The bonds, notes, or warrants may be additionally secured by a pledge of any revenues or a mortgage of any project or other property of the authority.

(c) Neither the commissioners of an authority nor any person executing the bonds, notes, or warrants under this section are personally liable on the bonds, notes, or warrants.

(d) The bonds, notes, or warrants of a housing authority are not a debt of the state or any political subdivision and must state this fact on their face. Neither the state nor any political subdivision is liable on them. The bonds, notes, or warrants are not payable out of any funds or properties other than those of the authority.

(e) Bonds, notes, or warrants issued under this chapter are not an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

(f) The bonds, notes, or warrants of a housing authority and the interest on them are exempt from all taxes.

(g) The bonds, notes, or warrants of a consolidated city:

- (1) are payable only from revenues derived from the public housing function;
- (2) are payable only from a special fund continued or established for that purpose; and
- (3) are not a debt of the consolidated city and must state this fact on their face.

The consolidated city is not liable on the bonds, notes, or warrants other than out of the special fund.

(h) All bonds, notes, or warrants issued by a housing authority or a consolidated city serving the public housing function before September 1, 1987, are legalized, ratified, and declared valid, and all proceedings had and actions taken under which those bonds, notes, or warrants were issued are fully legalized and declared valid. The assumption of any obligations of a housing authority by a consolidated city is also legalized and declared valid.

(i) Bonds, notes, or warrants payable by a consolidated city under its assumption of the obligations of a housing authority under this chapter are payable only out of the funds pledged to obligees and as

such are a limited obligation of the consolidated city in accordance with subsections (c), (d), (e), and (g).

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.8.*

### **IC 36-7-18-31**

#### **Bonds, notes, and warrants; approval by unit; procedure for issuance and sale; negotiability**

Sec. 31. (a) Issues of bonds, notes, or warrants of a housing authority must be approved by the fiscal body of the unit after a public hearing, with notice of the time, place, and purpose of the hearing given by publication in accordance with IC 5-3-1. The bonds, notes, or warrants must then be authorized by resolution of the authority.

(b) After the bonds, notes, or warrants have been approved under subsection (a), they may be issued in one (1) or more series, with the:

- (1) dates;
- (2) maturities;
- (3) denominations;
- (4) form, either coupon or registered;
- (5) conversion or registration privileges;
- (6) rank or priority;
- (7) manner of execution;
- (8) medium of payment;
- (9) places of payment; and
- (10) terms of redemption, with or without premium;

provided by the resolution or its trust indenture or mortgage.

(c) The bonds, notes, or warrants shall be sold at public sale under IC 5-1-11, for not less than par value, after notice published in accordance with IC 5-3-1. However, they may be sold at not less than par value to the federal government, at private sale without any public advertisement.

(d) If any of the commissioners or officers of the housing authority whose signatures appear on any bonds, notes, or warrants or coupons cease to be commissioners or officers before the delivery, exchange, or substitution of the bonds, notes, or warrants, their signatures remain valid and sufficient for all purposes, as if they had remained in office until the delivery, exchange, or substitution.

(e) Subject to provision for registration and notwithstanding any other law, any bonds, notes, or warrants issued under this chapter are fully negotiable.

(f) In any proceedings involving the validity or enforceability of any bond, note, or warrant of a housing authority or of its security, if the instrument states that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income, it shall be conclusively presumed to have been issued for that purpose and the project shall be conclusively presumed to have been planned, located, and constructed in accordance with this chapter.

*As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.33; P.L.344-1987, SEC.9.*

### **IC 36-7-18-31.1**

#### **Repealed**

*(Repealed by Acts 1981, P.L.310, SEC.94.)*

### **IC 36-7-18-32**

#### **Bonds, notes, and warrants; additional powers of housing authorities; covenants; limitation on liability**

Sec. 32. (a) In issuing bonds, notes, or warrants, incurring obligations under leases, and securing payment of those obligations, a housing authority may perform all acts necessary or desirable to secure the bonds, notes, or warrants or to make them more marketable. This includes the power to:

- (1) pledge or covenant against pledging any of the gross or net rents, fees, or revenues to which it has or will have a right;
- (2) mortgage or covenant against mortgaging any of the real or personal property it owns or later acquires;
- (3) covenant against permitting a lien on any of its rents, fees, revenues, or real or personal property;
- (4) covenant as to limitations on its right to sell, lease, or otherwise dispose of all or part of a housing project;
- (5) covenant as to what additional debts or obligations it may incur;
- (6) covenant as to the bonds, notes, or warrants to be issued;
- (7) covenant as to the issuance of its bonds, notes, or warrants in escrow or otherwise;
- (8) covenant as to the use and disposition of the proceeds of its bonds, notes, or warrants;
- (9) covenant against extending the time for the payment of its bonds, notes, or warrants or the interest on them;
- (10) provide for the replacement of lost, destroyed, or mutilated bonds, notes, or warrants;
- (11) redeem its bonds, notes, or warrants, and covenant for that redemption and its terms and conditions;
- (12) covenant, subject to the limitations in this chapter, as to the rents and fees to be charged in the operation of housing projects;
- (13) covenant as to the amount of rents, fees, and other revenues to be collected in a specified time, and as to the use and disposition of those revenues;
- (14) create special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money in those funds;
- (15) prescribe the procedure, if any, by which the terms of a contract with holders of bonds, notes, or warrants may be amended or abrogated, including the amount of bonds, notes, or warrants that must be held by holders consenting to the amendment or abrogation, and the manner in which that consent may be given;
- (16) covenant as to the use of any of its real or personal property;
- (17) covenant as to the maintenance, replacement, and insurance of its real and personal property, and as to the use and disposition



of insurance money;

(18) covenant as to the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;

(19) prescribe and covenant as to events of default and the terms and conditions upon which any of its bonds, notes, or warrants become or may be declared due before maturity, and as to the waiver of the right to make such a declaration;

(20) vest in one (1) or more trustees or holders of bonds, notes, or warrants the right to enforce the payment of the bonds, notes, or warrants, or any covenants securing or regarding them, and provide the terms and conditions upon which these rights may be exercised;

(21) vest in one (1) or more trustees the right, in the event of a default by the authority, to take possession of and use, operate, and manage a housing project or any part of it, and to collect and dispose of rents and revenues in accordance with the agreement between the authority and trustee;

(22) establish the powers and duties of trustees and limit their liability; and

(23) make any other covenants.

(b) Any covenants made by the department, division, or agency of the consolidated city serving the public housing function under this chapter only binds the consolidated city as to the public housing function and not generally.

*As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.10.*

### **IC 36-7-18-33**

#### **Obligees of housing authorities; rights**

Sec. 33. (a) For purposes of this chapter, the following persons are considered obligees of a housing authority:

(1) A holder of bonds, notes, or warrants.

(2) A trustee for such a holder.

(3) A person who leases property to the authority for use in connection with a housing project, or an assignee of that person's interest.

(4) The federal government, when it is a party to a contract with the authority.

(b) In addition to his other rights and subject only to any contractual restrictions binding upon him, an obligee of a housing authority may:

(1) by proceedings at law or in equity compel the authority and its commissioners, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to perform all duties imposed upon it by this chapter; and

(2) by proceedings in equity enjoin unlawful conduct or the violation of any of his rights as an obligee of the authority.

(c) A housing authority may, by resolution, trust indenture, mortgage, lease, or other contract, confer upon any obligee holding or representing a specified amount in bonds, notes, or warrants, or holding



a lease, the right, upon the happening of an event of default as defined in the resolution or contract, to:

- (1) cause possession of a housing project, or any part of a project, to be surrendered to him;
- (2) require the authority and its commissioners to account as if they were the trustees of an express trust; and
- (3) obtain the appointment of a receiver of a housing project, or any part of a project, and of rents and profits from it.

If a receiver is appointed under subdivision (3), he may enter, take possession of, operate, and maintain the project. The receiver may collect all fees, rents, and other revenues arising from the project, and he shall keep them in one (1) or more separate accounts and apply them in accordance with the obligations of the authority, as directed by the court.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-34**

#### **Exemption of real property from execution or other judicial process**

Sec. 34. (a) All real property of a housing authority is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may be issued against it.

(b) A judgment against a housing authority may not be made a charge or lien upon its real property.

(c) This section does not apply to the right of obligees to foreclose or otherwise enforce a mortgage of a housing authority, or the right of obligees to pursue remedies for the enforcement of a pledge or lien given by an authority on its rents, fees, or revenues.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-35**

#### **Federal, state, and other aid**

Sec. 35. (a) A housing authority may do all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of a housing project by the authority, including:

- (1) borrowing money or accepting grants or other financial assistance from the federal government for or in aid of a housing project;
- (2) taking over, leasing, or managing a housing project or undertaking constructed or owned by the federal government; and
- (3) complying with any conditions and entering into any mortgages, trust indentures, leases, or other agreements that are necessary or desirable under this subsection.

(b) A housing authority may accept aid from the state, political subdivisions, or private persons.

(c) Notwithstanding subsections (a) and (b), a housing authority may not incur any indebtedness to the federal government, or to any other public or private agency, that matures more than fifty (50) years after letting of contracts for the projects.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-36**

#### **Reports**

Sec. 36. At least once a year, a housing authority shall file with the clerk of the fiscal body a report of its activities for the preceding year, and shall make recommendations for any additional legislation or other action it considers necessary to carry out the purposes of this chapter. The authority shall make a copy of this report available for inspection by the public at the office of the authority.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-37**

#### **Books, records, and accounts**

Sec. 37. (a) The state board of accounts shall prescribe methods and forms for keeping the accounts, records, and books to be used by a housing authority, and shall prescribe accounts to which particular outlays and receipts are to be entered, charged, or credited.

(b) The state board of accounts shall require a housing authority to file periodic reports with it, but not more often than quarterly or less often than annually. The report must cover the operations and activities of the authority, in a form prescribed by the board. The board may from time to time require the report to include specific answers to questions upon which the board desires information. The authority shall keep copies of all periodical reports on file in its office and make them available for examination by the public.

(c) The state board of accounts shall periodically audit the books, records, and accounts of housing authorities. These audits shall be paid for in the manner prescribed by IC 5-11-4.

*As added by Acts 1981, P.L.309, SEC.37.*

### **IC 36-7-18-38**

#### **Approval of projects by department of health; filing with state building commissioner**

Sec. 38. (a) A housing authority shall file with the state department of health a description of each proposed project, including plans and layout. The state department shall, within thirty (30) days, transmit its approval or disapproval to the authority.

(b) A housing authority shall file all plans for new construction with the state building commissioner in the manner prescribed by IC 22-15-3.

*As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.310, SEC.93; P.L.8-1984, SEC.128; P.L.245-1987, SEC.20; P.L.2-1992, SEC.892.*

### **IC 36-7-18-39**

#### **Approval of projects by state agencies, boards, and commissions**

Sec. 39. Approval of a project of a housing authority by a state board, commission, or agency is required only to the extent prescribed by this chapter.

*As added by Acts 1981, P.L.309, SEC.37.*

#### **IC 36-7-18-40**

##### **Supervision of federally financed projects**

Sec. 40. Notwithstanding this chapter, a housing project wholly or partially financed by the federal government remains subject to supervision and control by the federal government.

*As added by Acts 1981, P.L.309, SEC.37.*

#### **IC 36-7-18-41**

##### **Jurisdiction of authorities**

Sec. 41. (a) A municipal housing authority has jurisdiction to exercise the powers granted by this chapter in the municipality and in the area within five (5) miles of the corporate boundaries of the municipality. However, the authority may not exercise its powers within the corporate boundaries of another municipality without the consent, by resolution, of the fiscal body of that municipality.

(b) A county housing authority has jurisdiction to exercise the powers granted by this chapter in all unincorporated areas of the county outside the jurisdiction of municipal housing authorities. However, the jurisdiction of a county housing authority may be expanded to include all or part of the jurisdiction of a municipal housing authority if the fiscal bodies of the county and of the municipality each adopt a resolution declaring a need for the county housing authority to exercise its powers within the jurisdiction of the municipal housing authority. Such a resolution may be adopted only after a public hearing, with notice of the time, place, and purpose of the hearing given by the fiscal body by publication in accordance with IC 5-3-1.

(c) Notwithstanding subsections (a) and (b), the housing authority of a consolidated city has jurisdiction to exercise the powers granted by this chapter only in the area that was subject to its jurisdiction on December 31, 1969.

*As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.34.*

#### **IC 36-7-18-42**

##### **Joint projects; authorization**

Sec. 42. Two (2) or more housing authorities may join or cooperate with one another in the exercise of any of the powers conferred by this chapter, for the purpose of financing, planning, undertaking, constructing, or operating housing projects located within the jurisdiction of any one (1) or more of the authorities.

*As added by Acts 1981, P.L.309, SEC.37.*

#### **IC 36-7-18-43**

##### **Repealed**

*(Repealed by P.L.41-1987, SEC.22.)*

#### **IC 36-7-18-44**

##### **Repealed**

*(Repealed by P.L.41-1987, SEC.22.)*